

July 21, 2009

The regular meeting of the Andover Township Land Use Board was called to order at 7:30 p.m. on Tuesday, July 21, 2009 by the Chairman, Stan Christodlous.

Present: Members    CeCePattison  
                              Suzanne Howell  
                              Gerald Huelbig  
                              Gail Phoebus, Class III  
                              Bob Smith, Class I  
                              Lois deVries, Class II  
                              Ellsworth Bensley, Alternate  
                              Diana Boyce  
                              Stan Christodlous, Chairman

Secretary:            T. Linda Paolucci

Professional:        Joseph Golden, P.E.  
                              Thomas Germinario, Esq.  
                              Russell Stern, P.P.

### **FLAG SALUTE - RULES - OPEN PUBLIC MEETINGS ACT**

**OPEN TO THE PUBLIC** – The Chairman opened the meeting to the public and read the rules of the act. No one stepped forward from the public.

**JCP&L d/b/a First Energy, Block 60, Lot 5.01 – Amended Preliminary & Final Site Plan – Completeness Review** – John Beyel, Esq., of McElroy, Deutsch, et al of Morristown, NJ, stated that he is the attorney representing JCP&L, stated that in referring to Golden’s report he does not see that there are any major issues to be taken care of and will take care of any minor problems.

Golden commented that he has no engineering issues with any of the waivers requested in his reports and has mentioned the items that he will waive for “completeness only” and will discuss the others during the merits of the hearing.

Smith had a question regarding Golden’s report *Item No. 17* which is a waiver request of a landscape plan if the plan has been submitted. Beyel answered that the request for a waiver was for the request of a *new landscaping plan*. Smith asked Stern if he is satisfied with the landscaping plan that was submitted for “completeness”. Stern answered “yes” for completeness only. Smith questioned *Item No. 18* which is request of a waiver for “use”. Beyel answered that the reason for the request is that this was already submitted and it is a request not to have to resubmit for the same thing. Smith commented that in Golden’s report under *General Comments – No. 2* – it recommends that the applicant provide an illustration identifying the viewpoint of each section – which he agrees with. Golden stated that although he considers the application complete he brought this up as he feels it is in the best interest of the applicant when he comes forward with the merits at the hearing.

Stern commented that Golden made a good point recommending that the applicant provide Elevation A-A with a comparison of what was originally approved to what has not been constructed and what it will ultimately look like when it is completed out.

There were comments from the Board members with regard to waiving certain items regarding wetlands in Golden's report. Golden reiterated that this is a resubmission of an already approved partially constructed plan and whatever the justifications were for waiving the LOI for the initial application he believes it would be carried forward, which were addressed at previous meetings.

DeVries mentioned the flooding at the site while it was being built and wanted to know what the applicant did with regard to this. Golden stated the applicant did an extensive hydraulic analysis which his office reviewed on several occasions which were rejected and came back and he is aware of the area which has flooded pre-construction, as well as post-construction. Golden continued that he had the applicant install pipes under their access road so that the water that would flow there would have the opportunity to continue along the side of Limecrest Road so that it would not compromise the road. Golden continued that his office had the analysis done at an elevation equal to the low point in the road adjacent to the property assuming that it would be the high elevation of any flooding, the small basin and depression that was put in the front is actually an equalizer of equal size to the amount of area that they filled within this flood area. The flood area in this particular site was relatively narrow so JCP&L did do an evaluation and did do a zero net fill calculation for the site which was taken into consideration with the first application, stated Golden.

There was further conversation amongst the Board members as to completeness only items and issues that will be heard at the merit hearing. Germinario explained that this is an amended preliminary and final application only as to those things that are different from what the Board previously approved.

Christodlous questioned what the changes are that have been made the site since the "Stop Work Order". Golden stated that one of the things that transpired since the Stop Work Order was PSE&G's work on the large line pole but nothing else that he is aware of within the fence of construction site.

Christodlous mentioned that apparently the additional height came about because PSE&G made some changes that at some point that perhaps JCP&L was not aware of, but told the representatives of JCP&L that once they became aware of it they should have advised our township engineer, instead of our township engineer becoming aware of it. JCP&L representative agreed.

Motion to find the application complete was made by Boyce, second by Howell. In favor: Pattison, Howell, Huelbig, Phoebus, Smith, DeVries, Boyce, Bensley, Christodlous. Opposed: None. Motion carried.

Beyel requested that the hearing date be set for September 15, 2009, a letter request will be sent.

**DINA'S LLC – Block 106, Lot 19 – Amended Preliminary Final Site Plan –**  
Completeness Review – Owen Dykstra of Dykstra Engineering, Andover, NJ stated that he is the engineer for the applicant. Dykstra stated that he received Golden's report and addressed his comment with regard to the Letter of Interpretation (L.O.I.). Dykstra stated that this is a site that has been fully graded, everything has been disturbed and is an amended final site plan and all of the disturbances that they are proposing are occurring in previously disturbed areas, so, therefore, they are requesting a waiver from the L.O.I.

Huelbig questioned as to what type of approvals are now being asked for by the applicant as opposed to the work already having been done. Dykstra stated that the applicant did have site

plan approval, however, he did go beyond what was approved in the back area of the property and is coming back to request that now in order to get approval for that area.

Golden asked Dykstra for testimony on the new pipe work that is being proposed along the County that clearly is in the transition area and the wetland is across the road and to explain why the applicant is requesting a waiver of the L.O.I. for that disturbance. Dykstra stated that an L.O.I. is a specific piece of property down the County right-of-way it wouldn't require an L.O.I., but would require a permit in order to construct it, as it all is in disturbed area. Golden recommended that the applicant give a letter or their environmentalist interpretation of their requirement for a permit for the drainage structures and also a certification that no L.O.I. is necessary. Dykstra stated that they will get an applicability determination from the NJDEP as a condition of approval but does not believe that there is a reason for obtaining the L.O.I.

Bensley asked for clarification of the size of an area that was disturbed. Dykstra stated that the area was approximately 60 ft. that was not proposed to be disturbed, which was done to expand the parking area. There was some discussion regarding drainage.

DeVries had questions regarding the existing non-functioning drywells and the maps submitted by the applicant as to the new system. There was further discussion regarding notification to the State with regard to the wetlands. DeVries also had questions regarding the landscaping and lighting. DeVries had questions on the proposed patio and stated that if the Board is expected to be approving the patio at the time of the hearing than not enough information was provided. Stern stated that it would be best to provide more information to the Board before the hearing date with regard to what is envisioned to that area. Christodlous stated that in answer to DeVries question the patio area is not part of the approval presently being sought, it is just for completeness.

Motion was made to deem the application complete subject to the conditions listed on Golden's report dated July 16, 2009 with the exception of *Item No. 23 which was for completeness only* by Huelbig, second by Pattison. In favor: Pattison, Howell, Huelbig, Phoebus, Smith, DeVries, Boyce, Bensley, Christodlous. Opposed: None. Motion carried.

**ALMA LANE ASSOCIATES** – Block 156, Lot 1, 2 & 2.02 – Preliminary & Final Site Plan and Preliminary Major Subdivision – Applicant requests to be carried to September 15, 2009.

**SUSSEX & WARREN HOLDING-** Block 117, Lot 33, Preliminary Major Site Plan (COAH)

Kevin Hahn, Esq. of Courter, Kobert, Hackettstown, NJ stated that he represents the applicant. Hahn stated that he has a question with respect to the conservation easement as to whether or not a conservation easement is still necessary as a lot line adjustment will be created in order to give the land to one of the neighbors to the property, Mr. Golembeski. Golden agreed that the conservation easement will not be necessary if a lot line adjustment is agreed upon with the adjoining lot owners. Tessier of Dykstra Engineering stated that they will try to file the map simultaneously with the lot line adjustment.

Smith had questions regarding a similar situation with the property adjacent where the roadway is shared by the applicant and the residents on Blocks 801, 804 and 806 and understands that there are some concerns on the part of the residents as to the disposition on that part of the roadway and believes that there may be an agreement that they would obtain that through a lot line adjustment. Tessier answered that is an actual lot line adjustment which in that case was already a part of the subdivision, therefore, in the filed subdivision in the deeds that are being prepared, as a condition of that, the applicant will be giving that sliver of land that goes down their driveway to them which will happen upon the filing of the map and the township professionals' approval of the deeds.

Tessier went over some of the items in Golden's report. There was discussion regarding the snow piling area and Tessier agreed to move the snow piling area which is now shown off the parking lot to an area that will be acceptable to the Township Engineer.

There was discussion regarding "shared" responsibility with the township and Golden stated that a snow removal plan will need to be referenced in the Developers Agreement.

Tessier went over some of the items in Golden's report and stated that metes and bounds descriptions will be provided with the deeds; they are preparing a joint maintenance agreement is being prepared for the common driveway and will submit a deed for review; with regard to the postal mailbox they would like the final location of it to be approved upon the local post office's approval; fire lane will be provided in accordance with RSIS standards and will only need one point of access because of the amount of parking spaces. Tessier stated that the other item with regard to clean up and washing trucks will be done in accordance with soil conservation rules and regulations.

There was further discussion with regard to silt fence to be done around the limit of disturbance; there will be no blasting on the site, tree planting will be subject to two year landscapers, Tessier stated if a decision is made this evening by the Board the landscape plan will be subject to any revisions that the township planner may feel is necessary. Stern agreed and stated that it will be taken into account the fact that this is affordable housing and what is needed is to provide some further enhancement to the architecture and the landscaping.

Stern brought up the issues of exterior storage of bulky items and lighting on the buildings and free standing lights in the parking light and recommends leaving lights on through out dawn to dusk. Hahn agreed to leave the lights on because of the nature of the parking lots and will be a safer situation. The Board members agreed to keep the lights on as opposed to motion actuated.

With no comments coming forward from the public, Christodlous asked for a motion for approval subject to conditions in Golden's and Stern's report. Motion to approve made by Howell, second by Smith. In favor: Pattison, Howell, Huelbig, Phoebus, Smith, DeVries, Boyce, Bensley, Christodlous. Opposed: None. Motion carried.

Boyce asked to have acknowledgement supplied to the Board on whether the adjacent property owner would be in agreement of a conservation easement or by way of deed to the property. Tessier said applicant said that they will be supplying one copy of all the deeds to Board and to the professionals.

**RESOLUTION – WAWA INC.,** Block 158, Lot 6 – Amended Final Site Plan Approval. Motion was made by Smith, second by Phoebus. DeVries stated that there is a correction to *Page 2* of the word mitigation to "migration". Germinario stated that DeVries was correct. Motion was made to approve the resolution along with the correction mentioned by DeVries by Smith, second by Phoebus. In favor: Pattison, Howell, Huelbig, Phoebus, Smith, DeVries, Boyce, Bensley, Christodlous. Opposed: None. Motion carried.

Germinario commented that he received an e-mail from Prime on July 20<sup>th</sup> wherein a question was raised regarding Golden's report of July 17<sup>th</sup> *Section 4-I* they are rejecting Golden's requirement that the separation of the basin and the groundwater that there is not the 2 feet clearance between seasonal high water and the bottom of the basin. Germinario asked Golden if this was correct and Golden answered "that is correct". Germinario continued that Golden was asking the applicant to point out where that would be okay under the Best Management Practices that DEP has put out and basically Prime has said that DEP has concurred and approved this drainage system and it is our understanding from the June 16<sup>th</sup> Board hearing that because

NJDEP has approved the Stormwater Management System no further review by the Board engineer is required and WaWa requests that the comment be eliminated or deemed satisfied. Germinario asked for Golden's statement. Golden said that the BMP Manual requires 2 feet for any infiltration system and that is to ensure that the water can actually infiltrate and there is enough room for where that water can go, therefore, it is a requirement and I wanted to be sure to include that in my report. There was further discussion regarding the groundwater and resolving of the issue.

**MINUTES – June 10, 2009**

Pattison made a motion to approve the minutes of May 19, 2009, second by Howell. All in favor. Opposed: None. Motion carried. Abstained: Smith and Huelbig.

**OLD/NEW BUSINESS –**

Phoebus informed the Board that she was put on the County Planning Board as a second alternate.

Howell wished to discuss the receipt of the smaller sets of plans for the Board members as they are easier to handle. It was agreed by the Board members that the applicants should provide at least five large sets and the rest of the board members find the 11 x 17 sets easier to handle.

**VOUCHERS** – Motion was made to approve the vouchers by Howell, second by DeVries. All in favor. Opposed: None. Motion carried.

**ADJOURNMENT** – Christodlous asked for a motion to adjourn. Motion was made to adjourn the meeting by Pattison, second by Heulbig. In favor: all. Opposed: None. Meeting was adjourned at 9:08 p.m.

Respectfully submitted,

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Stan Christodlous, Chairman

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T. Linda Paolucci, Secretary